

THE RESOURCE MANAGEMENT ACT 1991

APPLICANT:	VISION SENIOR LIVING LTD
LOCAL AUTHORITY:	CHRISTCHURCH CITY COUNCIL
SUBJECT MATTER:	Application for land use consent to enable the establishment of “a 271 Unit retirement complex”
SITE DESCRIPTION:	Lots 58 and 59 DP 201, Certificate of Title CB25F/1266; 57 Peer Street
REFERENCE:	RMA 92012600
HEARING DATE:	10 and 11 December 2008

Appearances:

- A Dewar and P Leeming for the Applicant **Vision Senior Living Ltd**
 - **J Sinclair** for herself and for the **Ilam and Upper Riccarton Residents Association Inc, J & S Walker, B Watson and F Robertson & A Ocock**
 - **L H Wills** for herself and for **N & E Crutchley**
 - **R S English**
 - **K Handisides**
 - **D Bell**
 - **J Tyler-Gordon** for herself and for **P Gordon**
 - **D Watson** for himself and for **J Young**
 - **I Peterson**
 - **A Brockerhoff**
 - **C Carranceja** for himself and for **C Carranceja**
 - **D R Young** for himself and for **G E Young**
- J Dovey and S Abley to present s42A reports

DECISION OF THE COMMISSIONER**Introduction**

The subject land is part of an area of Business 4 zoning (the Feltex site) that formerly accommodated a carpet factory which, at the height of its operations, employed some 600 people, working in three shifts. The Feltex site is surrounded by land zoned either Living 1 or Living 2, and the resulting conjunction of residential and industrial activities has produced

concerns over the years. The Feltex operation has now ceased, most of the industrial buildings have been removed and the site now stands vacant.

On 15 August 2008 Vision Senior Living Ltd sought land use consent to

... establish a 271-unit retirement complex on the application site with auxiliary basement and at grade parking, vehicle access and landscaping.

The proposal also includes the provision of common facilities for residents. This will incorporate the development of the existing boiler house building to provide administration, reception, on-site dining and other amenities for residents on the site ... [and] ... will be undertaken in accordance with the details information and plans that accompany and form part of the application ...

The 'application site' – the subject land – is an L-shaped block comprising about three-quarters of the old Feltex site. No use has yet been proposed for the balance. The application plans show a series of apartment buildings of between three and 6 storeys (from 9 to 18 metres of façade height, and 13 metres to just under 20 metres at roof peak.

Although described as a 'retirement complex' the proposal does not include a care facility. Rather, the applicant proposes a condition that 'residents' be at least 55 years of age. From an external viewpoint the principal consequence of this limitation is that it affects likely traffic generation. In all other respects the proposal is for a relatively high-rise apartment complex.

Public notification of the application (on 24 September, 2008) attracted some 22 submissions, ranging from opposition, through qualified support to (in one case) full support. On 24 November 2008 a Council Hearings Panel, acting under delegated authority, appointed me "as a Commissioner to hear submissions and make a decision with respect to" this application.

Section 113 of the Act requires that decisions on applications for resource consent are to state a number of matters there specified, including "a summary of the evidence heard". That summary is to be found in Appendix A – the other matters will be found in the body of this decision.

Process issues

In the course of her evidence Ms Wills expressed concerns about the way in which this application had been notified. As I understood it, her complaint was the Christchurch City Council had failed adequately to inform interested parties of the fact and nature of the application, had deterred potential submitters from lodging a submission (because, she said, no indication was given on the forms that the Council made available as to where they were to be sent) and had been remiss in the provision of information necessary to the making of submissions. I took these complaints as founding a submission that the hearing should not proceed.

Accordingly I asked that the relevant Council records be made available. From those it appears that the question of 'affected persons' had been considered, and that it had been decided that notice should be given to 167 residents in surrounding streets whose properties were identified on a map contained in the file – a number somewhat larger than suggested in the application itself. The identification included, but was not limited to, properties adjacent to or over the road from the subject land. These people were sent, under cover of a letter dated 23 September 2008, a summary of the proposal, prepared by (or on behalf of) the applicant. The covering letter

pointed out that this summary should not be taken as complete, recommended a review of the application as a whole and indicated where copies of that could be found. Further, the letter gave a last date for the receipt of submissions “by the Council” – submission forms enclosed – and pointed out that a copy of the submission should be sent to the applicant. The supplied submission form follows Form 13 of the ‘Forms’ Regulations and, while it does not contain an address to which it should be sent, quite clearly infers that it is to be sent to the Council and expressly says that a copy is to be sent to the applicant.

Additionally, public notification occurred in the manner prescribed by the Act. That clearly states where the application might be examined, and says that submissions “will be received at any Council Office until 5pm on Wednesday, 22 October, 2008”. The requirement that a copy be sent to the applicant is included. Finally, I was informed that a notice was posted on the site containing a brief summary of the application and appropriate details as to where that application could be viewed, when submissions could be made and as to where they should be sent.

On the information available to me I can find no defect in the processes of notification, and conclude that Ms Wills’ complaints in this regard have no substance.

Relevant provisions of the Plan

Although the City Plan is described as ‘partly operative’ the aspects of it that are not have no application to the present case. Additionally, and relevantly, the City has promulgated Proposed Change 29, affecting the Business 4 zones, in one example of which the whole of the subject land is contained.

The Operative plan contains no height limitation for buildings in the Business 4 zone. The Rules for that zone

- (a) Require the planting of perimeter trees along roads as a condition of new development. In the present case 48 are required, and 41 are proposed.
- (b) Require an internal queuing space of 25.5 metres, against a proposed space of 6m;
- (c) Require limited discretionary activity consent (limited to matters associated with vehicular access) for ‘high traffic generators’ – which the present proposal undoubtedly will be; and
- (d) Limit residential units to 1 for each established business activity, for the purpose of security and management of that business activity.

The effect of these rules is to constitute the proposed activity ‘discretionary’, which is to say that consent may be granted or refused, but that the proposal does not have to surmount the limitations of (or any adverse inference arising from) non-complying activity consent.

Change 29 was introduced in late 2007, in part because the absence of a height limitation for the Business 4 zones was thought to provide a ‘loophole’. The Change proposes two height limitations: 15 metres as a ‘development standard’, and 20 metres as a ‘critical standard’. Leaving all other considerations aside, buildings up to 15m in height may now be erected in the Business 4 zone as of right, those between 15 and 20 metres require discretionary activity

consent, and those above 20 metres consent as a non-complying activity. Change 29 has reached the point at which submissions have been heard, but decisions on these submissions have yet to be made. I was told that a range of possibilities remains open, from no height limitation at all to one rather more stringent than that proposed

In general, Objectives and Policies relating to the Living zones emphasise the desirability of protecting high levels of residential amenity. Apart from policy statements about ‘managing’ adverse effects of industrial activity throughout the City, there is little that addresses the ‘interface’ problems associated with enclaves of Business 4 zoning located within a residential environment. Of interest is Policy 12.11.4, which is to recognise the potential for the “rezoning” of land in industrial areas for other purposes.

Statutory considerations

Section 104(1) is (relevantly) as follows”

When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to—

- (a) any actual and potential effects on the environment of allowing the activity; and
- (b) any relevant provisions of—
 - (i) ...
 - (ii) ...
 - (iii) a regional policy statement or proposed regional policy statement;
 - (iv) a plan or proposed plan; and
- (c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.

The reference to Part 2 of the Act indicates an over-arching requirement – in the end, the question to be answered is whether a grant of consent would better accord with the Act’s single purpose (the sustainable management of natural and physical resources as defined in s5 and amplified in the sections that follow) than would refusal.

Actual and potential effects on the environment

The relevant environment

The ‘environment’ of concern to submitters was characterised by them as that of a developed, low density, residential area. Thus, and while they saw retirement complexes as, in general, appropriate candidates for inclusion within that environment, they resisted this one on the grounds (principally) of its building size and likely traffic generation. Ideally they saw the subject land as suited for development within the Living 1 or Living 2 rules, and tended to view a residential environment of this sort as providing the standard against which the present proposal should be judged.

The environment anticipated by the Plan is somewhat different, incorporating as it does an anticipated use of the Feltex site for Business 4 purposes. What this might come down to is, in the end, a matter of speculation, but residents could (I believe) reasonably expect subdivision of the land and development of the resulting lots for a series of more-or-less unrelated commercial and light industrial activities. I think Mr Phillips had it right when he said, in his para.60

In respect of visual effects, the utilitarian nature of buildings developed for commercial activity (e.g., tilt slab construction with little architectural relief) in conjunction with the large areas of hard surfacing (i.e., for car parking, access and manoeuvring) would provide a distinct outcome in comparison to the proposal and would have a lower standard of visual amenity.

Development of this form would have other effects upon the residential environment, including those occasioned by traffic generated by the various enterprises established in terms of the provisions of the Plan. Further, it is at least reasonable to suppose that developments of this kind would involve buildings of significant height and bulk – however the limits of the former will not be established until Change 29 becomes operative (in whatever form it then takes).

Height related issues

In various ways, all of the submitters in opposition emphasised what they saw as the excessive height of the presently proposed buildings. Some, seemingly taking refuge in the provisions of Proposed Change 29, said that they would accept a development of this sort if its height was reduced to 15 metres. Whether or not they meant by this that they would accept a result in which all proposed buildings were *at* 15m was not made clear.

The plans attached to the application show a variety of heights. On the Brodie and Peer Street frontages (and turning in to Athol Terrace), buildings are shown having a maximum height (at roof peak) of 14.85 metres. These are designed so that the tallest elements are centred and recessed from the road. Parapet height is, in general, about 3 metres below roof peak.

Buildings proposed for the Athol Terrace frontage – apart from those already mentioned – and for the centre of the site rise to 19.85 metres. Some part of the effect of this will be lost, to the near gaze, by reason of the fact that the taller elements are set back, with those immediate to the Athol Terrace frontage having a height (post amendment) of just under 15m. All buildings are set back from the road frontages, and extensive landscaping is proposed.

The design approach was described by Mr McGowan (from the Architectural firm of Warren and Mahoney) in the following way;

Low rise apartments have been arranged to align with street boundaries at Peer and Brodie Streets, offset at intervals from the 10m setback and its associated planting zone. These three and four storey buildings are appropriately scaled to sit well with the residential character of Brodie Street and to reinforce the principally pedestrian quality of the neighbourhood. At the northern boundary taller buildings are positioned inboard of the perimeter and arranged on a north/south axis, presenting a narrow frontage to Athol Street and distributing their footprint largely to the internal portions of the site. In this manner the taller buildings are deliberately restricted in their street presence and large areas of landscape between them are made available to Brodie Street for pedestrian view and interaction.

This is, essentially, a description of the client brief, as a following paragraph makes it clear that a deliberate decision had been made to adopt a ‘high-rise’ form. I think that it is also an accurate description of the result, pointing out the ways in which, at the design level, attempts had been made to ‘soften’ the visual effect of the buildings proposed.

In this, I think the architects have been successful. Nevertheless, and again in visual terms, the proposed buildings, if erected, will stand as something of an anomaly in the generally low rise, residential neighbourhood. However:

- (i) Existing developments at the University of Canterbury (including the Halls of Residence and those of the former College of Education) show that it is possible to integrate high-rise developments in to neighbourhoods of this sort;
- (ii) The existence of those developments makes the present proposal somewhat less anomalous than it might otherwise have been; and
- (iii) In any event the alternative that I must consider – development for Business 4 purposes – will also be anomalous, albeit in different ways.

Other height related issues were raised, amongst them being concerns as to loss of privacy and sunlight. I am not persuaded as to the first. The concern is that existing residents will find their property overlooked – to the point that previously ‘private’ areas will become open to the gaze of residents of the retirement complex. My ‘view’ of the area suggests that, for all but close neighbours, this will be largely precluded by the intervention of trees and existing buildings. So far as close neighbours are concerned, the ‘overlooking’ effect is something that can be produced by complying buildings – e.g., multi-storey residences. Further, sight line diagrams provided in the evidence of Ms Reeves suggest that an overlooking of private areas will be the rare case. Additionally, it is of some interest to note (both in relation to this issue and to others) that the only submission received from people who in my view might be *significantly* affected in this way – that from residents of 19 Athol Street – raises only the issue of construction noise.

Shadow diagrams provided with the application – and discussed in the course of the hearing – satisfy me that some shadowing will occur to properties fronting Brodie and Peer Streets, and to the south of the proposed complex – mostly in the early mornings and late afternoons of winter months. Again, no-one likely to be affected raised this issue. However I accept that it will be an adverse effect on the living environments of some who have not made submissions.

There were submissions that the proposed buildings would constitute an interference to – and detraction from – the views of more distant residents. Taller buildings in and around the University give some indication as to what this might be like, and I do not think that the point is of great significance.

Finally, there was a concern about dominance – the sense that a large building appears to ‘loom over’ the neighbourhood. I accept that something of this sort is likely – at least to neighbouring residents – but that the effect is mitigated both by the design of the buildings and by proposed landscaping.

Traffic related issues

There appears no doubt that Peer Street presents a problem. It is identified in the City Plan as a Minor Arterial, and forms part of a city ‘ring road’. Athol Terrace is a Collector Road providing important access to land to the west. Their intersection, at the north east corner of the subject land is operating well above capacity and at the lowest level of service. The concern of submitters is that the proposed development will make matters significantly worse.

In this context, however, I was directed by the applicant to the provisions of s104(2). That reads:

When forming an opinion for the purposes of subsection (1)(a), a consent authority may disregard an adverse effect of the activity on the environment if the plan permits an activity with that effect.

As indicated above, s104(1)(a) requires that regard be had to “any actual and potential effects on the environment of allowing the activity”. The argument was that, as development of the subject land in terms of the Plan could produce a total traffic generation at least as great as that predicted for the present proposal, I should ‘disregard’ those effects.

There are areas of uncertainty here. Firstly, and as already noted, the principal consequence of limiting residence to persons 55 and over is that it justifies a somewhat different assessment of likely traffic generation than would be used if occupation was not so restricted. On this basis both Mr Chesterman and Mr Abley have settled on about 930 trips/day as an appropriate *predictive* figure (for traffic likely to be generated by the proposal) upon which to undertake analysis. Secondly, determination of the traffic generation ‘permitted’ by the Plan is a somewhat speculative exercise, depending upon the types of development assumed. For these reasons I do not think it would be appropriate for me simply to ‘disregard’ adverse traffic-related effects on the environment consequent upon a grant of consent.

Obviously, and if effects are not ‘disregarded’, regard must be had to them. The Courts have held that, in order to comply with a requirement to have regard to something, that thing must be brought in to consideration and given the weight that it and its circumstances demand. In some cases that may mean no weight at all. The issue is one of evaluation.

What seems to be agreed – as between traffic engineers – is that development of the subject land for Business 4 purposes is likely to give rise to traffic generation similar to that of the present proposal. Mr Chesterman regards the difference as “insignificant”; Mr Abley puts the same point in the following way:

Overall, when comparing the application to the other activities that could establish on the site, and probably as a minimum the typical industrial activity, the application will have lesser traffic effects than the other ‘evil’.

This is, of course, an evaluation that ‘factors in’ other aspects of the present proposal, including the fact that it will have one vehicular access to the road network (on to Athol Terrace) rather than – potentially – several on to Peer Street. The point is, however, that if I accept the traffic evidence – and I do – there remains no basis upon which I could conclude that the traffic generation effects of the proposal are significant ‘adverse’ effects justifying (in themselves) a refusal of consent. The effects of concern are best to be seen as effects of the Plan rather than of the proposal. Accordingly I accord them little weight.

In my view, other traffic-related Plan non-compliances are of little consequence. The experts agree that an insufficiency in required queuing space is unlikely to result in adverse effects. As framed, the ‘high traffic generator’ rule requires merely that careful consideration be given to the way in which vehicular access and egress is obtained. No-one has suggested that there is an issue in this respect. Finally, I am satisfied (despite Mr Abley’s original concerns) that the intended parking provision complies with the Plan – and in any event Mr Abley was reasonably happy with the proposed provision in practical terms.

Arguments for mitigation

Many submitters qualified their opposition by saying that they would accept a development of the present sort *if* building heights were confined to 15m. I took this as a suggestion that, if I were minded to grant consent, I should impose a condition to that effect.

Such a form of development has always been open to the applicant which, for its own reasons, has chosen otherwise. Because of this, and while such a condition is open to me, I do not think that I should embark upon what is, in effect, a re-design of the proposal in order to give effect to that part of the purpose of the Act which speaks of "[a]voiding, remedying, or mitigating any adverse effects of activities on the environment", or to fulfil that part of s7 that looks towards improvements in environmental quality. In my view the application must stand or fall on its own terms.

An overall evaluation of effects on the environment

Plainly, a grant of consent will alter the present environment in ways that, for some will be uncongenial. That environment – one possessed of the residential amenity values currently enjoyed unaffected by development of the subject land for Business 4 purposes – will alter if consent is refused, most obviously by such a development. That too would, I think, be uncongenial to local residents.

In order to assist in obtaining an answer to the overarching question – whether a grant of consent would better fulfil the purpose of the Act – I need to make a judgment as to which consequence will be better in ‘environmental’ terms. Essentially, that requires me to consider, and comparatively evaluate quite different sets of effects. I accept that the present proposal will have detrimental effects upon both the existing environment (considered as a whole) and on the ‘residential’ environment so valued by submitters. On balance, however, I have come to the conclusion that the residential environment will be *comparatively* enhanced if consent is granted. In this regard I accept the opinion of Ms Dovey.

Relevant provisions of the Regional Policy Statement and the proposed Change to it

It was not suggested that these documents impacted in any way upon this proposal. I accept that position

Relevant provisions of The Plan and proposed Change 29

These have largely been discussed. I record that I was directed to, and have considered: Objective 4.1 and Policies 4.1.3-4; Objective 4.2 and Policies 4.2.1, 4.2.2, .4.2.3 and 4.2.6; Objective 6.1 and Policy 6.1.2; Objective 7.2 Policies 7.2.2 and 7.2.5; Objective 7.4; Objectives 7.5, 7.6 and 7.7; Policies 12.1.3 and 12.10.2; Objective 12.11; and Policies 12.11.1, 12.11.3 and 12.11.4. I accept the view of both Ms Dovey and Mr Phillips the present proposal is in accord with some, and that the remainder do not stand in the way of a grant of consent.

Plan Change 29 also contains ‘assessment matters’ for use when building heights exceed the maxima proposed. These relate to issues such as setback from zone boundaries, interference with sunlight admission, design and appearance of buildings and so on. I record that I have

given consideration to all of the matters there contained, and did so in coming to the conclusions already indicated.

Other relevant matters

Four submitters – including the Ilam and Upper Riccarton Residents Association raised an issue with the hours of construction activity. In addition, the Association appears to have co-ordinated a petition, signed by residents of the area (many of whom were not otherwise submitters to the proposal) seeking a 7am start time for “noisy construction machinery”. This petition was attached to the submission of Dr J and Mrs S Walker.

The issue appears to arise from a passage in the Assessment of Effects on the Environment where, under the heading ‘Mitigation Measures’ the author proposed conditions including

No construction machinery shall be operated outside the hours 6:30am to 8:00pm Monday to Friday, 7:30am to 6:00pm Saturday, or on Sundays or on public holidays without the Council’s prior consent (the condition does not apply to the use of a water cart for dust control)

It seems that those making a submission on this issue – and those signing the petition – thought that a condition of this sort would enable the noise standards of NZS 6803:1999 to be exceeded. That standard relates to construction activities, and compliance with it is generally required as a condition of consents given.

There are really two issues here – when construction work can begin, and the noise limits that are to apply at various times. As I understand the relevant submissions (and the terms of the petition) those raising the issue are primarily concerned with the second. On the basis that consent is given this can be dealt with by way of a re-drafted condition.

Submitters also expressed concerns about an extant discharge consent for boiler operation, seeking a condition that this be terminated. The consent in question is one issued by another consent authority, and I doubt that I have the jurisdiction to bring it to an end. In any event it was explained to me that the consent was not part of the suite of rights conveyed to the present applicant. As a consequence, the imposition of such a condition would be an attempt to abridge the rights of third parties, something that I clearly do not have the power to do.

Finally, there is the issue of tree planting. As explained earlier the proposal does not involve the number of perimeter trees specified in the Plan for developments in the Business 4 zone. I am satisfied that this is a consequence of the retention of existing mature trees, and that the landscaping proposals as a whole more than make up for this technical deficiency.

Part 2 matters and the overall judgment

The purpose of the Act, and the matters in sections 6-8 (statutorily given both necessary relevance and varying degrees of importance) provide the overarching criteria against which applications for resource consent are to be considered. No matters of national importance are implicated in this case, and the provisions of s8 have no present relevance. The relevant matters in s7 come, in the end, down to the question of whether grant of consent would aid in the efficient use of the natural and physical resource of the subject land, and whether the environment would be enhanced thereby. I think it clear that the applicants proposal is an

efficient use of the subject land, particularly because there no suggestions that it could better or more efficiently be used for Business 4 purposes. The environmental issue – and this was the only real issue raised by submissions in relation to this proposal – has already been discussed.

Plainly, a development of the proposed sort enables those who wish to take advantage of it better to provide for their own wellbeing. Apart form questions as to its economic viability, no=one really suggested otherwise. On the basis of the foregoing discussion I can see nothing in the second part of section 5(2) that a grant of consent would offend.

In my view a grant of the consent sought would better fulfil the single purpose of the Act than would refusal.

The Formal Decision

For the foregoing reasons, land use consent is granted to the establishment, on the subject land, of a 271-unit retirement complex with ancillary basement and at grade car parking, vehicle access and landscaping, and including the provision of common facilities for residents, upon the following conditions:

1. The proposal shall proceed in accordance with the full application and plans submitted, now labelled in Council records as RMA92012600/1 (the application) and RMA92012600/2-18 (the plans), except as modified (in relation to Blocks 3c and 4c) as indicated at the commencement of the hearing and detailed in the evidence of Mr Stephenson.
2. All residents within the complex shall be 55 years of age or over.
3. The proposed landscaping shall be established in accordance with the landscape plans submitted, now labelled RMA92012600/14-18 in Council records.
4. The landscaping shown on RMA92012600/14-18, as generally associated with and adjacent to each stage of the project, shall be provided on-site within 6 months of the completion of that stage, to the satisfaction of the Council's Landscape Architect.
5. The proposed *Zelkova serrata* trees shall be planted at a minimum height of 3.0m and maintained at a minimum height of 4m once achieved.
6. All other proposed trees shall be planted at a minimum height of 1.8m.
7. All landscaping required for this consent shall be maintained, with any dead, diseased or damaged landscaping is to be replaced immediately with plants of a similar species, all to the satisfaction of the Council's Landscape Architect.
8. During the construction period, visual screening to a height of 1.8m shall be provided around the perimeter of construction related areas, with the exception of vehicle crossings.
9. All on-site work is to be carried out between 0630 to 2000 hours Monday to Friday, and 0730 to 1800 hours on Saturdays. No work is to be carried out on Sundays and public

holidays. *Note: work between the hours of 0630 and 0730 Monday to Friday must comply with the lower noise standard for that time as per NZS 6803:1999.*

10. Construction Noise Management Plan:

- a. Prior to the commencement of construction works on site, the consent holder shall prepare and submit to the Council's Senior Environmental Health Officer for certification a *Noise Management Plan*. The purpose of that Plan is:
 - i. To identify the measures the consent holder will take to comply with the requirements of Section 16 of the Resource Management Act 1991;
 - ii. To ensure that construction noise complies with *NZS 6803:1999 – Acoustic Construction Noise*, the compliance with which is a condition of this consent (see condition 11 below);
 - iii. To identify the measures for reducing noise generated by construction activities.
- b. The Noise Management Plan shall be prepared by an appropriately qualified acoustic engineer and shall include:
 - i. The consent conditions relating to noise
 - ii. Details of all applicable noise limits;
 - iii. Details of all major on-site noise sources and whether any noise control methods are necessary to meet *NZS 6803:1999 – Acoustic Construction Noise*;
 - iv. Those matters listed in Annexure E of *NZS 6803:1999 – Acoustic Construction Noise*
- c. The Noise Management Plan may be amended at any time. Any amendments shall be:
 - i. Consistent with the purpose of the Noise Management Plan;
 - ii. Consistent with other resource consent conditions;
 - iii. Submitted in writing to the Council for certification that c(i) and c(ii) above have been met prior to any amendment being implemented.

11. Construction noise shall not exceed the sound levels specified in *NZS 6803:1999 Acoustics Construction Noise*, Table 2 ("long term"), at any affected property when measured and assessed in accordance with the Standard.

12. Prior to the occupation of each building block on the site, a suitably qualified and experienced acoustician shall submit a report to the Council confirming that all mechanical devices and plant associated with that block comply with the City Plan noise standards.

13. All necessary precautions shall be employed to mitigate and avoid adverse dust conditions, including application of effective dust suppressants throughout the stages of the

development and the avoidance of dust emission from vehicles removing material from the site. Provision for washing soiled vehicles on the site shall be made. Cleaning of vehicles and machinery shall be carried out where necessary to avoid tracking of soil from the site onto roads. Equipment for sweeping and cleaning the roads and site access points shall be available on-site. Any soil that is tracked onto the road and site access points shall be removed by sweeping or vacuuming to ensure that roads are maintained in a tidy condition.

14. Any external lighting shall be directed into the site and away from neighbours.

15. Construction Traffic Management Plan:

- a. Prior to the commencement of construction works on site, the consent holder shall prepare and submit to the Council's Environmental Policy and Approvals Manager for certification a *Traffic Management Plan*. The purpose of that Plan is to :
 - i. ensure that construction traffic and associated activities on roads adjoining and surrounding the site are planned so as to cause as little disruption, delay or inconvenience as possible to other users of the road and surrounding residents without unduly compromising safety, capacity and convenience;
 - ii. detail the practices and procedures to be followed by construction traffic and associated activities on roads adjoining and surrounding the site and in terms of access to and from the site;
- b. The Traffic Management Plan shall be prepared by an appropriately qualified traffic engineer and comply with the Code of Practice for Temporary Traffic Management (CoPTTM) including the Road Controlling Authority Local Roads Supplement. The Plan shall include:;
 - i. The location of ingress and egress to and from the site for construction vehicles, machinery and staff;
 - ii. The location of loading zones and parking areas to accommodate vehicles associated with construction on the site;
 - iii. The method of instruction to drivers of heavy vehicles using the site in respect of access to and from the site and manoeuvring in and around the site;
 - iv. Approximate proposed numbers and timing of truck movements throughout the day and the proposed routes;
 - v. Traffic controls to be put in place for any temporary activities within the road reserve including the proposed suspension of any parking restrictions;
 - vi. The location and details of any signage and direction boards for all road users such as vehicles, site workers, cyclists and pedestrians;
 - vii. Details of measures to be adopted for the protection of the public and other personnel in and around the site from construction traffic;

- viii. The manner in which it is proposed to control the emission of dust and debris from trucks removing material from the site;
 - ix. Details specifying how the impacts of heavy traffic generated during the construction phases will be controlled to minimise impacts on adjacent streets and the surrounding residential neighbourhood;
 - x. Complaint procedures.
- c. The Traffic Management Plan may be amended at any time. Any amendments shall be:
- i. Consistent with the purpose of the Traffic Management Plan;
 - ii. Consistent with other resource consent conditions;
 - iii. Submitted in writing to the Council for certification that c(i) and c(ii) above have been met prior to any amendment being implemented.
16. In the event of the accidental discovery of cultural/archaeological remains (e.g. concentrations of shells, charcoal or charcoal-stained soil, fire-fractured stone, bottles, pieces of glass or ceramics, bones, etc.) during the undertaking of earthworks and/or the installation of services, the following protocol shall be followed by the consent holder, or his/her representative:
- cease all earthworks immediately; and
 - contact the manawhenua; and
 - contact the Regional Archaeologist at the Christchurch office of the New Zealand Historic Places Trust; and
 - do not recommence earthworks until approval in writing has been given by the Regional Archaeologist of the New Zealand Historic Places Trust, as required under the *Historic Places Act*.

Advice Notes:

- The removal (and planting) of any street tree is subject to a separate Council approval process involving the Transport and Greenspace Unit.
- Additional consents may be required from Environment Canterbury.
- The proposal shall comply with the relevant Noise and Glare rules of the City Plan.

- The Council will require payment of its administrative charges in relation to monitoring, as authorised by the provisions of section 36 of the Resource Management Act 1991. At present the monitoring charges include:
 - (i) A monitoring fee of \$90.00 to cover the cost of setting up a monitoring programme and carrying out a site inspection to ensure compliance with the conditions of this consent; and
 - (ii) A chargeable rate of \$75.00/hour where further site inspections are required.
- Please note that a development contribution is required under the Development Contributions Policy 2006 (DC06). The Council requires Development Contributions to be paid prior to the issue of the Code Compliance Certificate for a building consent, the issue of a section 224 certificate for a subdivision consent, or authorisation of a service connection. The contributions are defined in the Council's *Development Contributions Policy 2006*, which has been established under the Local Government Act 2002, and is included in the Long Term Council Community Plan (LTCCP). If you have any queries in relation to this matter, please contact Simon Louttit, Development Contribution Manager on 941-6221, or Leo O'Loughlin, Building Consent Officer on 941 8995.

John Milligan
Commissioner
January 30, 2009

APPLICATION BY VISION SENIOR LIVING LTD
Summary of the evidence heard

R T Stephenson.

General Manager of the applicant, which specialises in the “independent living sector” of the accommodation market and provides apartment living for senior citizens. The advantages of this form of accommodation are that it provides:

- both the reality and a sense of personal security;
- efficiency in the case of emergency;
- the opportunity for accompanying recreational facilities; and
- is easy to heat.

Deals with earlier applications for (i) travellers’ accommodation and (ii) an earlier form of the present proposal. And with the consents obtained for and the process of removal of contaminated soils. Refers to consultation.

Notes amendments made to the application – (i) a reduction in the front façade height of Blocks 3c and 4c; (ii) alterations to two apartments so as to divide each in to two smaller units, thus maintaining the same overall total.

Richard McGowan

A principal of Warren and Mahoney Ltd, Architects. Describes the proposal as notified and the alterations since made. Is of the opinion that the proposed buildings are “appropriately scaled to sit well with the residential character of Brodie Street” and that the positioning of the taller buildings restricts them in their street presence.

Janet Reeves

Consultant Urban Designer. Describes the general area, with reference to the University and College Buildings and the Upper Riccarton Shopping Centre. Notes that the effect of height can be moderated by distance. Deals with Plan assessment matters relating to height, concluding that these do not militate against the grant of consent and, in some respects support it.

Tony Milne

Landscape Architect. Describes the site and its surrounds (including the wider neighbourhood including the University, Halls of Residence and Villa Maria School which, he says, successfully integrate with the adjoining residential character. Describes the “receiving environment” as “generally dominated by low-rise residential activity that is typified by moderately high quality dwellings and grounds.”

Describes the proposed landscaping, particularly

- perimeter planting, the retention of existing trees and the provision of intermediate planting

- the provision of a 1.8m enclosing fence (vertical metal fins between concrete pillars and short lengths of concrete block wall) generally behind the trees and allowing for planting on both sides;
- a 'rain garden' flanking the entrance

Notes that the perimeter planting involves fewer trees than the Plan requires, which in itself would require consent as a restricted discretionary activity.

Canvasses Plan assessment matters for the zone, making a comparative assessment of the proposal against what might reasonably be expected given Business 4 development. Concludes that the proposal is an improvement, in 'landscape' terms.

Addresses the submitters concerns as to 'landscape' issues.

Rhys Chesterman

Traffic Planner –ViaStrada Dunedin Ltd. From a 'compliance assessment' concludes that "the proposed development achieves a high degree of compliance with the relevant transport-related performance standards in the City Plan." Indicated a general agreement as between experts that the proposed development will generate something in the vicinity of 700 vehicle trips per day, with about 45-50 being added to the peak hour.

Notes that the Athol/Peer Street intersection is already above capacity, providing level of service F (the lowest category) – a situation likely to be exacerbated by *any* development of the subject land – although the crash history does not suggest that it is inherently unsafe. Is of the opinion that development of the subject land for purposes permitted by the Plan could easily produce worse traffic effects than those likely to be a consequence of the present proposal.

"On balance, I consider that the traffic effects on the traffic environment will be insignificant, relevant to other permitted developments that could occur on the site."

Jeremy Phillips

Senior Planner – ViaStrada Christchurch. Describes the central elements of the application, noting particularly the proposal that there should be a staged development.

Refers to amendments and traffic generation. Sees building height and traffic generation as the primary issues.

Argues that, on the basis of the traffic evidence, s104(2) is available in relation to traffic effects.

Addresses (i) character and visual effects, (ii) shading, outlook and daylight admission (iii) concerns about privacy, (iv) the traffic evidence, (v) issues of environmental health (construction noise and the like) and (vi) what he sees as positive effects, Is of the opinion that the proposed development will provide an appropriate living environment for inhabitant residents, and a significant *comparative* improvement on the potential environment of surrounding residents.

Canvasses the relevant statutory documents, saying that the proposal is (i) in accord with the Regional Policy Statement – including Proposed Change 1, (ii) in accord with most of the relevant objectives and policies of the City Plan and is "not inconsistent with" the remainder and (iii) accords with most of the Plan's detailed provisions.

Presents the following conclusions:

- The proposal will have only minor actual or potential effects on the environment as anticipated by the City Plan. In particular, the effects of building height will be principally avoided or mitigated through effective design and location given the application site;
- The effects of traffic generation will be less than those effects which are permitted and anticipated to occur under the Business 4 zoning;
- The proposal will have significant positive effects in terms of enhanced residential and visual amenity for the surrounding residential environment;
- Positive economic benefits for those involved in the development and social benefits for Christchurch's ageing population will also be realised;
- The proposal is generally consistent with the Canterbury Regional Policy Statement Proposed Change 1 and the relevant provisions in the Partly Operative Christchurch City Plan;
- The proposal will not undermine the integrity of the Plan;
- Limited weight should be afforded to the provisions introduced by Plan Change 29;
- The proposal will satisfy Part 2 matters, in particular the matters in sections 5 and 7.

L Wills

Reads the submissions of Norma and Earl Crutchley (unable to be present because of a family illness) and presents her own evidence.

A resident of Parkstone Ave, living "in close proximity" to the subject land. Was previously adversely affected by the industrial use of that land and is presently adversely affected by heavy traffic on the roads. Was involved in the formation of the residents association.

Says that because the submission form provided by the Council had no return address there were fewer submissions in opposition. Raises an issue as to the extent of notification, complaining generally about the availability of information, matters of process and the like.

Is of the view that the site should be zoned either as Living 1 or 2

Concerned about the "market viability" of the proposal.

Presents, as her main point, a concern about visual domination by the proposed buildings.

Richard English

Sees Plan Change 29 as an improvement, and summarises his submission in relation to that. His essential concern is that the height restriction there proposed for the Business 4 zone (15m as a development standard – 20m as a critical standard) is incompatible with the surrounding area – an issue of scale.

Says that the proposed buildings will be very noticeable – to the point of visual dominance. On the basis of his ability to see a (former) cell-phone tower on the site, thinks that there will be several hundred people whose privacy might be affected.

Would accept the proposal if the height of the proposed buildings was reduced to 15m.

Kevin Handisides

A resident of Brodie St (near Villa Maria). Read his original submission. Expressed a concern about the need to improve services in Athol Terrace – particularly the provision of underground cabling.

Judy Sinclair

Chairman of the Ilam and Upper Riccarton Residents Association Inc. Gave evidence of public meetings held by the Association in order to ascertain the views of residents.

Does not oppose the development *per se*, and sought residential zoning for the site (by letter sent to the Council). However, regards the proposal as “a big city urban development” producing adverse effects of visual dominance, shading, interference with light and (perhaps) road icing.

Canvassed the position of the Association (and herself) in relation to Change 29. In general, regards the proposed buildings as well designed, and welcomes the modifications introduced at the beginning of the hearing. However, sees the buildings as still too high.

Would accept either (i) a height reduction to 15m or (ii) a reduction to 5 storeys.

Was concerned with “the extra traffic that the development would generate” – and with the present street. Argues for improvements to the roads and for traffic lights.

Seeks a condition – in the event of grant of consent – that construction works not begin until 0700.

For Fiona Robertson and Ken Ocock: The earlier proposal for travellers’ accommodation was an attempt to establish a ‘baseline’. They are of the view that, as this is a residential activity, it should be governed by residential rules (presumably those applying to Living 1). Concerned with visual impact, exacerbated by the bulk of the blocks; by an “invasion of privacy”; by loss of daylight; by construction noise; by likely increases in traffic; and by glare and reflection that they think might be created by glass in the proposed buildings.

Don Bell

2 Tyndal Place. A horticulturalist and tree specialist. Likes the idea of a retirement complex, and with the landscaping proposed. But

(a) 20m is “far too high in a residential zone”. Is concerned with the issues of privacy, shading and wind-flow. Would accept a maximum height of 15m

(b) There should be a condition restricting colours to recessive shades;

- (c) A portion of the site should be “relinquished” to enable intersection improvement, and there should be improvements to road design;
- (d) The proposed starting time for construction is too early – there is a need to control construction noise and vibration;
- (e) Would like to see more ‘bird friendly’ trees and a greater emphasis on native species;
- (f) Has reservations about the choice of perimeter trees – slow growing and of a spreading habit. Wishes the retention of an existing peppermint gum tree.

Jane Tyler-Gordon

7 Kelsen Lane. Concerned – as with others – with the proposal to erect buildings over 15m.

Her greatest concern is with traffic likely to be generated by the proposed development and with the way that this will exacerbate the present position. Accepts that the position may not be different with an industrial development of the subject land, but says that this is something that the Council ought to resolve.

Doug Young

61 Corfe Street. Fully supports the proposal and says that he is not the only one. Says that the present application presents an opportunity to change the character of the site to one more compatible with its residential surrounds. The development will, he thinks, improve the desirability of the area and bring an increase in property values. Increased traffic from the site should be treated as a simple fact – if not generated by this proposal then by another one.

Ian Peterson

Wishes the height reduced and suggests a re-design so as to achieve a result acceptable to him. Doubts the traffic generation estimates and thinks that the proposed parking provision is likely to prove insufficient.

Annette Brockerhoff

A resident in the neighbourhood for 20 years. Her main concern is with the height of the proposed buildings and with the number of people likely to be accommodated – the traffic that they will generate, rather than the fact of their presence.

Says that buildings are not coherent with the scale of surrounding development – an “eyesore that people will have to look at on a continuous basis”.

Again, sees a need for better road design and for traffic lights